

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

RICKY JACKO,  
                                 Plaintiff,

v.

DR. KAREN GETNEY et al.,  
                                 Defendants.

3:14-cv-458-RCJ-WGC

**ORDER**

**I. DISCUSSION**

On January 9, 2015, this Court entered a screening order and dismissed Counts I and III, with prejudice, and dismissed Count II, without prejudice, with leave to amend. (ECF No. 6 at 8). The Court directed Plaintiff to file an amended complaint within 30 days of the date of that order. (*Id.*). The Court stated that if Plaintiff failed to file an amended complaint the Court would dismiss the case without prejudice. (*Id.*).

On January 12, 2015, Plaintiff filed a motion for appointment of counsel because he did not “know where to begin doing this.” (ECF No. 8 at 2). On January 23, 2015, Plaintiff filed a motion for an extension of time asking the Court to appoint him counsel and to permit appointed counsel time to file an amended complaint. (ECF No. 9 at 1).

A litigant does not have a constitutional right to appointed counsel in 42 U.S.C. § 1983 civil rights claims. *Storseth v. Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981). Pursuant to 28 U.S.C. § 1915(e)(1), “[t]he court may request an attorney to represent any person unable to afford counsel.” However, the court will appoint counsel for indigent civil litigants only in “exceptional circumstances.” *Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir. 2009) (§ 1983 action). “When determining whether ‘exceptional circumstances’ exist, a court must consider ‘the likelihood of success on the merits as well as the ability of the petitioner to articulate his

1 claims *pro se* in light of the complexity of the legal issues involved.” *Id.* “Neither of these  
2 considerations is dispositive and instead must be viewed together.” *Id.* In the instant case,  
3 the Court does not find exceptional circumstances that warrant the appointment of counsel.  
4 The Court denies the motion for appointment of counsel (ECF No. 8).

5 The Court grants Plaintiff 30 days from the date of this order to comply with the Court’s  
6 screening order (ECF No. 6) and to file an amended complaint. If Plaintiff fails to file an  
7 amended complaint, this action will be dismissed without prejudice.

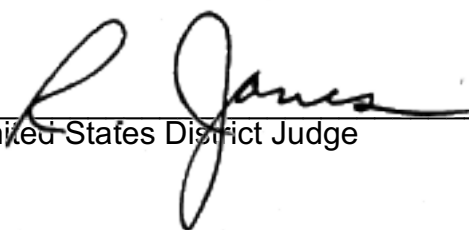
8 **II. CONCLUSION**

9 For the foregoing reasons, IT IS ORDERED that the motion for appointment of counsel  
10 (ECF No. 8) is denied.

11 IT IS FURTHER ORDERED that the motion to extend time to file an amended  
12 complaint (ECF No. 9) is granted in part. Plaintiff shall comply with this Court’s screening  
13 order (ECF No. 6) and shall file his amended complaint within 30 days from the date of this  
14 order.

15 IT IS FURTHER ORDERED that if Plaintiff fails to file an amended complaint, this  
16 action will be dismissed without prejudice.

17 DATED: This 11<sup>th</sup> day of February, 2015

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21 United States District Judge  
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